

1 Amend 2 Cal. Code Regs. § 18360:

2 **§ 18360. Complaints.**

3 (a) Pursuant to ~~Government Code~~ Section 83115, ~~any~~ a person may submit a
4 ~~formal sworn~~ complaint to the Commission or the Commission may on its own initiative
5 investigate concerning possible violations of the Political Reform an alleged violation of
6 the Act relating to any state agency, state official, state election, state lobbyist or state
7 legislative or administrative action.

8 (b) ~~Formal complaints may~~ A sworn complaint shall be filed on a form made
9 available by the Commission and ~~in any event~~ shall comply with all of the following
10 requirements:

11 (1) ~~be~~ Be in writing;.

12 (2) ~~Be verified by the complainant;~~

13 (3) ~~identify~~ Identify the person or persons who allegedly violated the Act and, if
14 known, the specific provision or provisions of the Act allegedly violated; .

15 (4) ~~describe~~ (3) Describe with as much particularity as possible the facts
16 constituting ~~the~~ each alleged violation;.

17 (4) Be based on facts of which the complainant has personal knowledge.

18 (5) ~~include~~ (4) (5) Include or describe with as much particularity as possible ~~any~~
19 evidence or means of obtaining evidence in support of the complaint; ~~and~~ .

20 (6) ~~include~~ (5) (6) Include names and addresses of potential witnesses, if known.

21 (6) (7) Be signed by the complainant under penalty of perjury.

22 (c) ~~Nothing in this~~ This regulation ~~shall~~ does not prevent ~~any~~ a person from
23 ~~informally~~ complaining by telephone to the Commission or ~~presenting information~~

1 ~~regarding possible violations of the Act~~ requesting anonymity when doing so, but only
2 ~~formal complaints~~ a sworn complaint filed substantially in conformity with subsections
3 subdivision (a) and (b) shall entitle entitles the complainant to the procedural rights set
4 forth in ~~Government Code~~ Section 83115 and in this regulation. ~~The members of the~~
5 ~~Commission and, where appropriate, other agencies which have an interest, shall be~~
6 ~~provided with information about all informal complaints on a regular basis. The staff~~
7 ~~shall make every effort to cooperate with any other governmental agency which would be~~
8 ~~in a position to assist the staff on the complaint. The staff may, however, decline to~~
9 ~~disclose the identity of a confidential source.~~

10 (d) ~~Upon receipt of a formal sworn complaint that conforms with the provisions~~
11 ~~of subsection (b), the staff shall send a copy to the members of the Commission and~~
12 ~~prepare an initial response. Prior to each regularly scheduled Commission meeting, the~~
13 Commission staff shall provide each member of the Commission a report with the
14 information specified in paragraphs (1) and (2):

15 (1) With respect to sworn complaints received since the last report:

16 (A) The name of the complainant unless the complainant is a confidential
17 informant.

18 (B) The name of the person or persons complained against.

19 (C) The date the sworn complaint was received.

20 (D) The alleged violation or violations of the Act.

21 (2) With respect to a staff-initiated investigation commenced since the last report:

22 (A) The name of the person who is the subject of the investigation.

23 (B) The date the staff initiated the investigation.

1 (C) The alleged violation or violations of the Act.

2 (3) The Commission staff shall also provide additional information a
3 Commissioner requests to that Commissioner, including a copy of a sworn complaint,
4 unless the Executive Director determines, in consultation with the Chief of Enforcement,
5 the information will compromise the impartiality of the Commissioner on matters alleged
6 in a complaint.

7 (e) The Chief of Enforcement, with the authorization of the Executive Director,
8 shall provide information about sworn complaints and staff-initiated investigations to
9 other governmental agencies that have an official and specific interest in the information,
10 and make every effort to cooperate with other governmental agencies in a position to
11 assist the Commission with an investigation. However, the Commission may decline to
12 disclose the identity of a confidential informant.

13 ~~(e) The initial response to a formal complaint shall be made in writing to the~~
14 ~~complainant within 14 days by the Executive Director on behalf of the Commission and~~
15 ~~shall~~

16 (f) The Executive Director shall take the following actions with respect to
17 complaints:

18 (1) Notify the complainant in writing within 14 days of receipt of a sworn
19 complaint state that the Commission will do one or more of the following:

20 ~~(1) will investigate~~ (A) Investigate the allegations of the complaint, in which case
21 the response shall inform the complainant the commencement of an investigation only
22 indicates the complaint alleges a violation of the Act, and the culpability of the person
23 complained against, if any, has not been determined ~~;-or-~~ .

1 ~~(2) will require additional time to evaluate the complaint to determine whether an~~
2 ~~investigation should ensue and provide an appropriate explanation for the delay; or~~

3 ~~(3) will refer~~ (B) Refer the complaint to another governmental agency; ~~or~~ .

4 ~~(4) will take~~ (C) Take no action on the complaint because, on the basis of the
5 information provided, the Commission ~~has no~~ does not appear to have jurisdiction to
6 investigate, ~~the complaint; or~~ but the complainant may provide additional information.

7 ~~(5) will take~~ (D) Take no action on the complaint because the allegations of the
8 complaint, absent the Commission receiving additional information, do not warrant the
9 Commission's further action ~~by the Commission~~ for the ~~reasons~~ reason stated ~~in the~~
10 ~~response.~~

11 (E) Take additional time to evaluate the complaint to determine whether an
12 investigation should ensue and provide an appropriate explanation for the delay. This
13 information shall be provided within successive intervals of no more than 14 days per
14 interval until the Commission notifies the complainant it has acted on the complaint
15 under subparagraphs (A) through (D).

16 (2) Provide the subject of the sworn complaint with a copy of the complaint and
17 any correspondence sent to the complainant pursuant to subdivision (f)(1) when it is sent
18 to the complainant. If the sworn complaint is otherwise made public before the initial 14-
19 day letter is sent, a copy of the complaint shall be promptly sent to the subject of the
20 complaint. However, upon the recommendation of the Chief of Enforcement and
21 provided withholding the information is otherwise consistent with law, the Executive
22 Director may decline to provide a copy of, or may redact information from, the complaint
23 or the correspondence sent to the complainant. If all or part of a complaint or

1 correspondence is withheld from the subject of the complaint, what is withheld may not
2 be disclosed to another person except to a law enforcement agency on a confidential
3 basis.

4 (3) Inform the subject of a staff-initiated investigation of the alleged violation or
5 violations not later than the time the information is provided to the Commissioners.
6 However, upon the recommendation of the Chief of Enforcement that providing the
7 information would jeopardize the investigation, the Executive Director may decline to
8 inform the subject of the complaint. If the Executive Director makes this determination,
9 he or she shall prepare a memorandum setting forth justification for the declination,
10 which shall be retained in the enforcement case file. If the subject of the complaint is not
11 informed of the complaint, the existence of the complaint may not be disclosed except to
12 a law enforcement agency on a confidential basis.

13 ~~(f) If the initial response is made pursuant to subparagraphs (e)(3), (4) or (5), it~~
14 ~~shall be sent to the members of the Commission before it is sent to the complainant. The~~
15 ~~members of the Commission shall be given reasonable time to suggest changes in the~~
16 ~~response and, if any member requests, the matter shall be considered in executive session~~
17 ~~at the next Commission meeting at which time the Commission may instruct the staff to~~
18 ~~take appropriate further action.~~

19 ~~(g) In the case of a formal sworn complaint, if no final action was taken at the~~
20 ~~time of the initial response, the Executive Director shall take such steps as are appropriate~~
21 ~~under 2 Cal. Adm. Code Sections 18361.1 through 18361.8 or shall prepare a final~~
22 ~~response stating that the Commission will take no further action and stating the reason for~~
23 ~~the decision. Such a final response shall be sent to the members of the Commission~~

1 ~~before it is sent to the complainant. The members of the Commission shall be given a~~
2 ~~reasonable time to suggest changes in the response and, if any member requests, the~~
3 ~~matter shall be considered in executive session at the next Commission meeting at which~~
4 ~~time the Commission may instruct the staff to take appropriate further action.~~

5 (g) If the Commission investigates the allegations of a sworn complaint, the
6 Executive Director shall notify the complainant in writing of the following:

7 (1) The time, date, and location of any public hearing or public meeting on the
8 complaint scheduled to be heard by an administrative law judge or the Commission.

9 (2) The date, time, and location of any public proceeding on the complaint
10 scheduled to be heard by a court.

11 (3) The Commission's or a court's final resolution of the complaint.

12 ~~(h) If, in the exercise of his or her discretion, the Executive Director determines~~
13 ~~that prompt action is required on a formal sworn complaint, he or she may approve the~~
14 ~~sending of an initial or final response without complying with the provisions of~~
15 ~~subsections (f) or (g). However, the Executive Director shall make reasonable efforts to~~
16 ~~consult with the members of the Commission consistent with the need for prompt action.~~

17 ~~(i) If the person who filed the formal sworn complaint disagrees with an initial or~~
18 ~~final the response sent pursuant to subdivision (f)(1)(C) or (D), he or she may submit in~~
19 ~~writing, within 20 days of receipt of the response, a request for reconsideration ~~which~~ that~~
20 ~~shall be directed to the ~~Chairman of the Commission~~ Executive Director, who shall~~
21 ~~forward the correspondence to each member of the Commission for consideration. Such~~
22 ~~request shall be considered by the Commission in executive session at its next regularly~~

- 1 ~~scheduled meeting. Written notice of the Commission's decision shall be sent to the~~
- 2 ~~complainant by the Chairman.~~
- 3 NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83115,
- 4 Government Code.